

159614



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

**NOTICE OF POTENTIAL LIABILITY AND OFFER TO NEGOTIATE AND
REQUIRED SUBMISSION OF INFORMATION
FOR REMOVAL ACTION
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
OVERNIGHT- NEXT DAY MAIL**

MAY 21 1991

Mr. John Paulyson, Reorganization Trustee
United States Lines, Inc.
75 Montgomery Street
6th Floor
Jersey City, NJ 07302

Re: A Line Freight Company, 70th and Kingsessing, Philadelphia,
Pennsylvania, ("Site")

Dear Mr. Paulyson:

This letter notifies United States Lines, Inc. (U.S. Lines) of its potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9607(a), as amended (CERCLA), that U. S. Lines may incur or may have incurred with respect to the above referenced Site. This letter also notifies you or your company of forthcoming removal activities at the Site which you or your company may be asked to perform or finance at a later date. Finally, the letter requires you or your company to provide certain information to EPA.

NOTICE OF POTENTIAL LIABILITY

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party (PRP) or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. §9604.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), and the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq. (RCRA), and other laws, PRPs may be obligated to implement response actions deemed necessary by EPA to protect health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for

AR100031

investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a) of CERCLA to require PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day under Section 106(b) of CERCLA, or imposition of treble damages under Section 107(c)(3).

EPA has evaluated information in connection with the investigation of the site. A box trailer rented by your company has been discovered on the Site containing hazardous substances. Based on this information, EPA believes that you or your company may be a PRP with respect to this Site. PRPs under CERCLA include current owners and operators of the Site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to the Site. By this letter, EPA notifies you or your company of its potential liability with regard to this matter and encourages you or your company to voluntarily perform or finance those response activities that EPA determines are necessary at the Site.

SITE RESPONSE ACTIVITIES

At present, EPA is planning to remove and dispose of drums of hazardous substances found in the on-site trailers.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for removals unless there is a 6-month planning lead time after the decision to respond and prior to the initiation of the action. Since the planning lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

AR100032

INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA would like to encourage good faith negotiations between the PRPs and EPA, and among the PRPs. To assist PRPs in preparing a proposal and in negotiating with EPA concerning this matter, EPA is providing the following information as attachments to this letter:

A list of names and addresses of PRPs to whom this notification is being sent. This list represents EPA's preliminary findings on the identities of PRPs. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the site.

DEMAND FOR PAYMENT

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the Site. U. S. Lines is potentially liable for additional costs plus interest if EPA conducts additional activities at the site. EPA may demand these costs from you at some time in the future.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. § 9613(k) EPA must establish an administrative record that contains documents that form the basis of EPA's decision on the selection of a response action for a site. The administrative record files, which contain the documents related to the response action selected for this site, will be available to the public for inspection and comment. The primary location is generally the EPA Regional office, which for Region III is 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

PRP RESPONSE AND EPA CONTACT

EPA has previously contacted the PRPs listed in the attached PRP list. EPA has only recently become aware of the location of U.S. Lines. However, EPA has information indicating that you or your company has been previously informed of U.S. Lines' potential liability with regard to this Site. You are encouraged to contact EPA within three (3) days of receipt of this letter to indicate your willingness to participate in future negotiations regarding this site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume you do not wish to negotiate a resolution of you or your company's liabilities in connection with the response, and that you have declined any involvement in performing the response activities. To assist your company a list of other PRP has been attached. You or your company

AR100033

may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the Site and for any damages to natural resources.

INFORMATION TO BE SUBMITTED

EPA is further investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants into the environment at the 70th and Kingessing Site. EPA is obtaining information concerning the generation, storage, treatment, transportation, and disposal methods of such substances that have been or threaten to be released from the Site. EPA believes that you or your company may possess information which may assist the Agency in its investigation of the Site.

In order to complete an investigation, EPA requires that you or your company respond fully and completely to the following items:

The response should include, but not be limited to, information and documentation concerning:

1. A box trailer (number INBU 299 866, USA 4510) containing drums of hazardous substances is presently on-site. EPA has information that U.S. Lines is the most recent lessee of this trailer. Provide information regarding the most recent contents of the trailer. In response to this question provide routing and dispatch documents.

2. Provide a copy of all correspondence between your company and Interpool Containers Inc., A-Line Freight Company, Scott Warehouse Corporation, Scott Trucking, or any third party regarding the above referenced trailer and contents thereof.

Authority to require submission of this type of information has been given to EPA by Congress under Section 104(e) of CERCLA, 42 U.S.C. Section 9604(e), and under Section 3007(a) of RCRA, 42 U.S.C. Section 6927(a). EPA requires that you respond in writing on or before May 29, 1991.

The provisions in Section 104 of CERCLA, 42 U.S.C. Section 9604 and Section 3008 of RCRA, 42 U.S.C. Section 6928, authorize EPA to pursue penalties for failure to comply with these provisions or failure to respond adequately to required submissions of information. In addition, providing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under the Criminal Fines Enforcement Act, 18 U.S.C. Section 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

As used in this letter, the term "documents" means: writings (handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts,

AR100034

bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phono-records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer printouts, or other data compilations from which information can be obtained or translated.

You are entitled to assert a claim of business confidentiality covering all or any part of the submitted information, in the manner described in 40 C.F.R. Section 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the required information is submitted to EPA, EPA may make this information available to the public without further notice to you.


This required submission of information is not subject to the approval requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501 et seq. Please respond in writing to this required submission of information, to the address specified below, on or before May 29, 1991.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein. Your response to this notice letter should be sent to:

U.S. Environmental Protection Agency
Terry Stilman, OSC
CERCLA Removal Enforcement Section (3HW33)
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-6686

If you or your attorney have any questions pertaining to this matter, please direct them to Mr. Stilman at (215) 597-6686, referred to above, or Charles B. Howland, Assistant Regional Counsel, at (215) 597-3210.

Sincerely,


Abraham Ferdas, Director
Office of Superfund
Hazardous Waste Management Division

AR100035